

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1914.

No. 628.

THE UNITED STATES, PLAINTIFF IN ERROR,

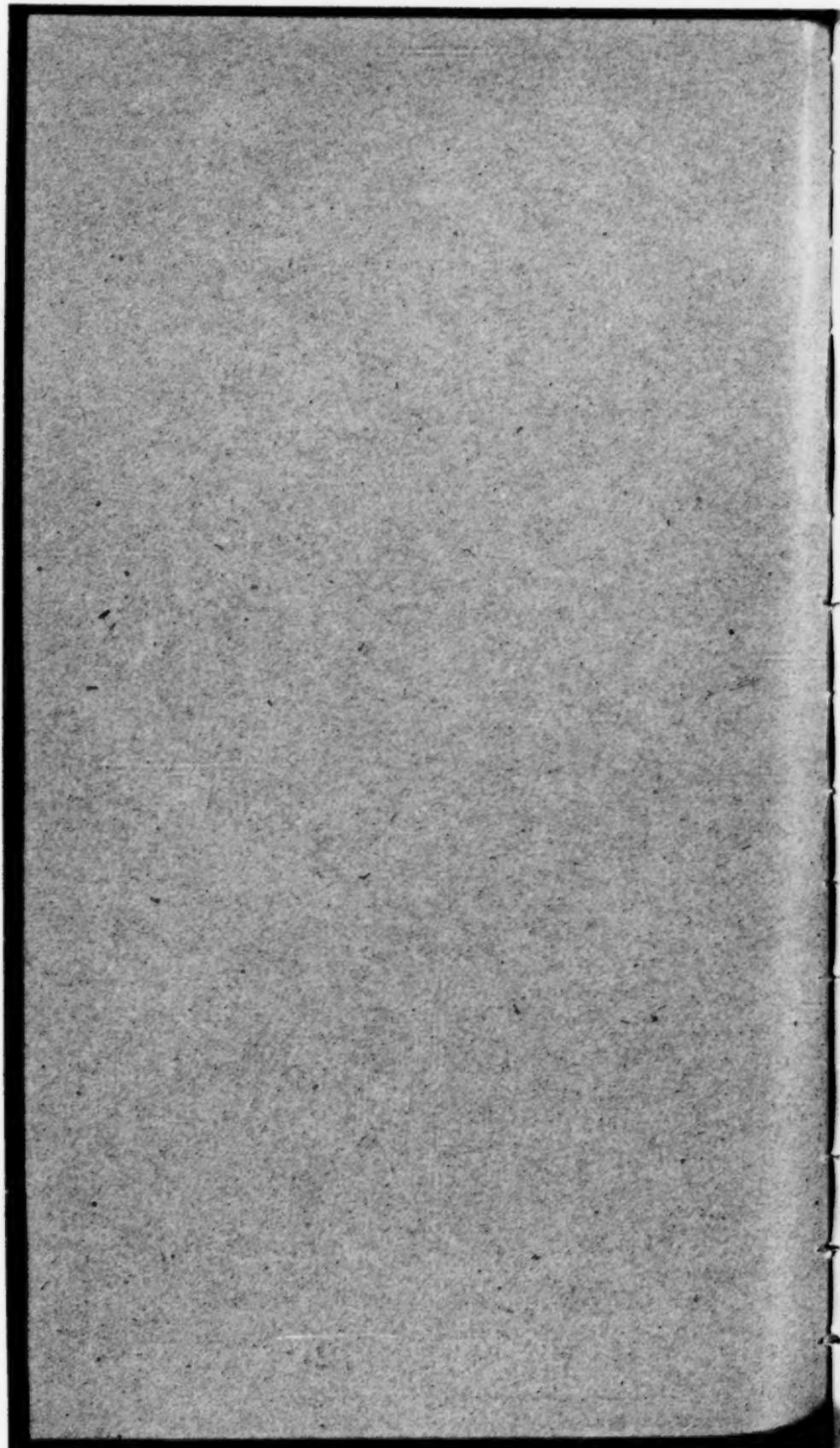
vs.

CLARA HOLTE.

**IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE EASTERN DISTRICT OF WISCONSIN.**

FILED SEPTEMBER 19, 1914.

(24372)



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1 & 2 District Court of the United States for the Eastern District of Wisconsin.

UNITED STATES OF AMERICA,*Eastern District of Wisconsin, ss:*

At a stated term of the District Court of the United States of America for the Eastern District of Wisconsin, begun and held according to law at the city of Milwaukee on the first Monday (being the fifth day) of January, A. D. 1914.

Present, the Honorable Ferdinand A. Geiger, judge, presiding.

Among other the following proceedings were had, to wit:

THE UNITED STATES OF AMERICA, PLAINTIFF,*vs.***CLARA HOLTE AND CHESTER C. LAUDENSCHLEGER, DEFENDANTS.**

Be it remembered that on the 16th day of July, A. D. 1914, the grand jury presented the following bill of indictment against the above-named defendants:

3 In the District Court of the United States for the Eastern District of Wisconsin, of the January term, in the year of our Lord one thousand nine hundred and fourteen.

EASTERN DISTRICT OF WISCONSIN, ss:

The grand jurors of the United States of America, duly empaneled and sworn, in and for the Eastern District of Wisconsin, in said District Court, upon their oaths present:

That Chester C. Laudenschleger and Clara Holte, each late of the city of Milwaukee, in the county of Milwaukee, in the district aforesaid and within the jurisdiction of this court, hereinafter in this indictment called the defendants, heretofore, to wit, on and before the 27th day of March, 1914, at Barrington, in the State of Illinois, did conspire, combine, confederate, complot, and agree together to commit the acts made an offense and crime against the said United States of America by the act of June 25th, 1910, chapter 396, 36 Stats. L., 825, of the Revised Statutes of the United States, and commonly called the white-slave traffic act; that is to say, the said defendants and each of them, that they might the more easily enter into, assume, and safely continue and maintain illicit sexual and libidinous relations then and there conspired, combined, confederated, acquiesced, acceded, and deliberately agreed together that he, the said Chester C. Laudenschleger, should then and there transport in interstate commerce, and cause to be transported and should aid and assist in obtaining transportation for, and should procure and obtain, and cause to be procured and obtained, and aid and assist in procuring and obtaining a ticket to be used by the said Clara Holte evidencing her right to be so transported and to go, and that she, the

said Clara Holte, should then and there consent and agree to go and do and allow herself to be prevailed upon, persuaded, induced, enticed, and coerced to go and to be carried and transported in
4 interstate commerce as aforesaid over and along and upon the line of the Chicago & Northwestern Railway, a corporation organized and existing under the laws of the State of Wisconsin, and a common carrier engaged in interstate commerce and in the interstate transportation of passengers from Barrington, in the State of Illinois, to Milwaukee, in the State of Wisconsin, for the purpose of prostitution, debauchery, and other immoral practices.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present and say:

That in pursuance of the said unlawful, corrupt, felonious, and wicked conspiracy, combination, confederation, and agreement, and to effect and attain the object thereof, the said Chester C. Laudenschleger, on the said 27th day of March, 1914, did unlawfully, knowingly, and feloniously transport and aid and assist in obtaining transportation for the said Clara Holte from Barrington, in the State of Illinois, to Milwaukee, in the State of Wisconsin, and within the jurisdiction of this court, over and along the line and railroad route of a certain common carrier, and known as the Chicago & Northwestern Railway, a corporation organized and existing under and by virtue of the laws of the State of Wisconsin, and a common carrier engaged in the business of the transportation of persons by railroad, for the purposes of prostitution, debauchery, and other immoral practices.

And the grand jurors aforesaid, upon their oaths aforesaid, do further say:

That in pursuance of the said unlawful, corrupt, felonious, and wicked conspiracy, combination, confederation, and agreement, and to effect and attain the object thereof, the said Chester C. Laudenschleger on the said 27th day of March, 1914, did unlawfully, knowingly, and feloniously procure and obtain and aid and assist in procuring and obtaining a certain ticket evidencing the right of
5 the said Clara Holte to go and to be used by her in going in interstate commerce and which was so used by her in going from Barrington, Illinois, to Milwaukee, in the State of Wisconsin, and within the jurisdiction of the court, for an immoral purpose, to wit, for the purpose of having illicit sexual intercourse with her, the said Clara Holte, and which said ticket was a ticket for the transportation of the said Clara Holte upon and over the railway route of the Chicago and Northwestern Railway Company, a corporation organized and existing under and by virtue of the laws of the State of Wisconsin, and a common carrier engaged in interstate commerce and the transportation of persons by railroad from Barrington, in the State of Illinois, to Milwaukee, in the State of Wisconsin, a further and more particular description of which said ticket is to the grand jurors unknown.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That in pursuance of the said unlawful, corrupt, felonious, and wicked conspiracy, combination, confederation, and agreement, and to effect and attain the object thereof, the said Clara Holte, on the said 27th day of March, 1914, did unlawfully, knowingly, and feloniously go and willingly did agree and consent to go and be carried and was transported and carried over and along and upon the line of the Chicago and Northwestern Railway Company, a corporation organized and existing under the laws of the State of Wisconsin, and a common carrier engaged in the business of the transportation of persons by railroad in interstate commerce, from Barrington, Illinois, to Milwaukee, Wisconsin, and within the jurisdiction of the court, for the purposes of prostitution, debauchery, and other immoral practices.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present and say:

6 That in pursuance of the said unlawful, corrupt, felonious, and wicked conspiracy, combination, confederation, and agreement, and to effect and attain the object thereof, the said Clara Holte, on the said 27th day of March, 1914, did unlawfully, knowingly, and feloniously consent to go and to be carried and transported, and did in fact go and was in fact carried and transported over and upon the line and route of a certain common carrier in interstate commerce from Barrington, in the State of Illinois, to Milwaukee, in the State of Wisconsin, to wit, upon the line and route of the Chicago and Northwestern Railway Company, a corporation organized and existing under and by virtue of the laws of the State of Wisconsin, and a common carrier engaged in the business of transportation of persons by railroad upon its rail route from Barrington aforesaid to Milwaukee aforesaid, for an immoral purpose, to wit, for the purpose of having illicit sexual intercourse with him, the said Chester C. Laudenschleger.

And so the grand jurors aforesaid, upon their oaths aforesaid, do therefore say: That the said Chester C. Laudenschleger and the said Clara Holte, on the said 27th day of March, 1914, in manner and form as in this indictment charged, did unlawfully, corruptly, feloniously, wickedly, and maliciously conspire, combine, confederate, and agree together and with each other to commit the acts made an offense and crime against the said United States of America by the said act of June 25, 1910, to the evil and pernicious example of all others in like case observing and offending, to the manifest ruination and subversion of youth, and to the debasement and reproach of good morals and the scandal and destruction of the fundamental principles and notions of modesty, decency, and virtue, and thereby and in that manner defrauding the said United States of its governmental

7 function and policy to preserve social order between the States in the matter of preventing interstate commerce being polluted by the transportation of immoral women and women from one

State to another for lewd, licentious, adulterous, and fornicating purposes, and the prohibiting it being used as an instrument and facility for the citizens of one State to do wrong to and in their intercourse and intercommunication with commit offenses against the citizens of other States by effectuating the evils that inhere in all such transports, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

(Signed) GUY D. GOFF,

United States Attorney, Eastern District of Wisconsin.

(Endorsed as follows:) A true bill. Henry O. Van Eweyk, foreman grand jury. Filed July 16th, 1914. F. C. Westfahl, jr., clerk. Guy D. Goff, U. S. attorney.

United States District Court, Eastern District of Wisconsin.

THE UNITED STATES OF AMERICA

vs.

CHESTER C. LAUDENSCHLEGER AND CLARA HOLTE.] Criminal indictment.

July 17, 1914.

Before Honorable Ferdinand A. Geiger, judge.

This day came the district attorney, Mr. Guy D. Goff, and the defendant, Clara Holte, in custody. And the said defendant being arraigned pleads guilty and submits in mercy. And it is ordered by the court that sentence be deferred until July 20, 1914, at 10 o'clock a. m.

9 July 23, 1914. Demurrer filed as follows:

DEMURRER.

District Court of the United States for the Eastern District of Wisconsin.

UNITED STATES, PLAINTIFF,

vs.

CHESTER C. LAUDENSCHLEGER AND CLARA HOLTE, DEFENDANTS.]

And now comes the above-named Clara Holte in her own proper person into court, and having heard the said indictment read, says that the said indictment and the matters therein contained in manner and form as the same are above stated and set forth are not sufficient in law, and that she, the said Clara Holte, is not bound by the law of the land to answer the same, and this she is ready to verify; wherefore, for want of sufficient indictment in this behalf, the said Clara

Holte prays judgment and that by the court she may be dismissed and discharged from the said premises in the said indictment specified.

(Signed) LEWIS M. OGDEN,
Attorney for Defendant *Clara Holte*.

10 And now at this same term, to wit, January term, A. D. 1914, and on the one hundred and sixtieth day thereof, to wit, on the 23rd day of July, A. D. 1914, the following proceedings were had, to wit:

ORDER SUSTAINING DEMURRER TO INDICTMENT.

United States District Court, Eastern District of Wisconsin.

THE UNITED STATES OF AMERICA <i>vs.</i> CHESTER C. LAUDENSCHLEGER AND CLARA HOLTE.	Criminal in- dictment.
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July 23, 1914.

Before Honorable Ferdinand A. Geiger, judge.

This day came the district attorney, Mr. Guy D. Goff, and the defendant, Clara Holte, in custody, with her counsel, Mr. L. M. Ogden. And by leave of court the said defendant withdraws her plea of guilty by her before pleaded and demurs to the indictment.

And said demurrer came on to be heard and was argued and submitted. On consideration whereof it is ordered by the court that said demurrer be and hereby is sustained.

Further ordered that said defendant be discharged from custody on her own recognizance in the sum of \$1,000.

11

OPINION OF THE COURT.

District Court of the United States, Eastern District of Wisconsin.

UNITED STATES <i>vs.</i> CLARA HOLTE AND CHESTER C. LAUDENSCHLEGER.	
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GEIGER, *District Judge*:

The defendants are indicted for conspiring to commit an offense against the United States. The defendant Laudenschleger was separately indicted for a violation of the white-slave traffic act in that he caused his herein codefendant to be transported in interstate commerce, for immoral purposes, etc. He pleaded guilty thereto and is now serving a sentence imposed upon such plea. The female codefendant, Holte, upon being arraigned, tendered her plea of guilty to the present conspiracy indictment, but, not being represented by counsel, and in view of the importance of the question involved, the

court declined to accept such plea, and appointed Lewis M. Ogden, Esq., a member of the bar, to appear for and advise her in the premises.

Thereupon the plea of guilty was withdrawn and a demurrer to the indictment interposed.

In declining to accept defendant's tendered plea of guilty I was impressed with the idea that the case presented the question, Can a woman or girl who is the subject of a transportation in violation of the white-slave traffic act be indicted with the person who caused her to be transported, as a coconspirator? Counsel have
12 argued this as the only question.

Now, the offense defined by the white-slave traffic act can not be committed without the active or passive presence or concurrence of a woman or girl as the subject of transportation. As such subject of transportation—and an indispensable ingredient or element—the woman or girl can not and does not commit the offense. She can not be both slave and slaver. But the latter's guilt depends upon her presence as a subject of transportation, and the object of the intent which is the other ingredient of the offense. Can she be regarded as a "conspirator"? The negative answer given to this question is, in my judgment, fully supported by United States vs. New York Central Ry. Co., 146 Fed. Rep., 298; Chadwick vs. United States, 141 Fed. Rep., 225; United States vs. Dieterich, 126 Fed. Rep., 664.

An order may be entered sustaining the demurrer.

(Signed) F. A. GEIGER, Judge.

(Endorsed:) Filed Aug. 11, 1914. F. C. Westfahl, Jr., clerk.

13 Aug. 21, 1914. Assignment of errors, filed as follows:

United States District Court, Eastern District of Wisconsin.

UNITED STATES OF AMERICA, PLAINTIFF,
vs.
CLARA HOLTE AND CHESTER C. LAUDENSCHLEGER, } Assignments of
defendants. } error.

Comes now the United States of America, the plaintiff in the above-entitled cause, by Guy D. Goff, United States attorney for said district, its attorney, and makes and files the following assignments of error upon which it will rely in its prosecution of the writ of error in the above-entitled cause:

I. That the United States District Court in and for the Eastern District of Wisconsin erred in sustaining the defendant, Clara Holte's demurrer to the indictment in said cause, which said sustaining of said demurrer was based upon and involved a construction of the statutes upon which the said indictment is founded.

II. And that said court erred in construing that under section 37 of the Criminal Code, and sections 2 and 3 of the act of June 25, 1910, upon which the indictment in said action was based, a woman

or girl who is the subject of a transportation in violation of the white-slave traffic act can not be indicted with the person who caused her to be transported as a coconspirator, and that said court
 14 erred in sustaining said demurrer, basing its ruling on said construction of said statutes.

Wherefore said plaintiff prays that the judgment of the United States District Court for the Eastern District of Wisconsin be reversed.

GUY D. GOFF,

*United States Attorney for said District,
Attorney for Plaintiff, and Plaintiff in Error.*

15 Aug. 21, 1914. Petition for writ of error filed, as follows:

PETITION FOR WRIT OF ERROR.

United States District Court, Eastern District of Wisconsin.

UNITED STATES OF AMERICA, PLAINTIFF,
vs.

CLARA HOLTE AND CHESTER C. LAUDENSCHLEGER, DEFENDANTS.

Now comes the United States of America, the plaintiff in the above-entitled cause, and respectfully shows:

That on the 23d day of July, A. D. 1914, in the above-entitled cause, the District Court of the United States for the Eastern District of Wisconsin made and entered judgment sustaining a demurrer to the indictment in said cause, which said judgment sustaining said demurrer was based upon the construction of the statute upon which the indictment is founded; that in such judgment, and in the proceedings had prior thereto in this cause, certain errors were committed to the prejudice of this plaintiff, all of which will more in detail appear from the assignment of errors, which is filed with this petition.

Wherefore this plaintiff prays that a writ of error may issue in this behalf out of the Supreme Court of the United States for the correction of the said errors filed herein with this petition and so complained of, and that a transcript of the record, proceedings, and papers in this cause, duly authenticated, may be sent to the Supreme Court of the United States.

GUY D. GOFF,

U. S. Attorney for said District, Plaintiff's Attorney.

Dated this 21st day of August, A. D. 1914.

16 Let the writ of error issue without bond.

F. A. GEIGER,

United States District Judge, Eastern District of Wisconsin.

Dated this 21st day of August, A. D. 1914.

17 Aug. 21, 1914. Order allowing writ of error filed, as follows:

ORDER ALLOWING WRIT OF ERROR.

United States District Court, Eastern District of Wisconsin.

UNITED STATES OF AMERICA, PLAINTIFF,

vs.

CLARA HOLTE AND CHESTER C. LAUDENSCHLEGER, DEFENDANTS.

Comes now the plaintiff in the above-entitled cause, the United States of America, by Guy D. Goff, United States attorney for said district, its attorney, this 21st day of August, A. D. 1914, and files and presents to the court its petition, praying for a writ of error, and praying also that a transcript of the record, proceedings, and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the Supreme Court of the United States, and that such other and further proceedings may be had as may be proper in the premises, and also files its assignment of errors herein.

In consideration whereof, and on motion of Guy D. Goff, United States attorney for said district,

It is ordered that a writ of error be and hereby is allowed to have reviewed in the Supreme Court of the United States the judgment heretofore entered herein, without bond therefor.

By the court:

F. A. GEIGER, *Dist. Judge.*

Dated this 21st day of August, A. D. 1914.

18 Aug. 21, 1914. Praecept of record on writ of error filed, as follows:

PRAECEPT.

United States District Court, Eastern District of Wisconsin.

UNITED STATES OF AMERICA, PLAINTIFF,

vs.

CLARA HOLTE AND CHESTER C. LAUDENSCHLEGER, DEFENDANTS.

To the Clerk of the United States District Court, Eastern District of Wisconsin:

A writ of error having been issued for a review of this case by the Supreme Court of the United States,

Now, therefore, you are directed to transmit to said Supreme Court of the United States a true copy of the record, including the following files, papers, and proceedings therein, to wit:

Indictment.

Arraignment and plea.

Demurrer.

Opinion of court.

Order sustaining demurrer.

Assignment of errors.

Petition for writ of error.

Order for writ of error.

Writ of error.

Citation.

Præcipe.

Certificate of clerk.

19 All duly certified under your bond and seal of the United States District Court for the Eastern District of Wisconsin.

GUY D. GOFF,

*United States Attorney for said Dist.,
Attorney for Plaintiff in Error.*

Dated this 21st day of August, A. D. 1914, Milwaukee, Wisconsin.

Service of this præcipe is accepted this 28th day of August, A. D. 1914.

LEWIS M. OGDEN,

Per F. A. LANDECK,

Attorney for Clara Holte, Defendant in Error.

(Endorsed as follows:) Eastern District of Wisconsin, ss. I do hereby certify and return that on the 28th day of August, A. D. 1914, I served the within writ on Lewis M. Ogden, attorney for Clara Holte, by delivering and leaving with Fred A. Landeck, law partner of the said Lewis M. Ogden, a true copy thereof. H. A. Weil, U. S. marshal, by J. H. Vebber, deputy.

20

CERTIFICATE OF CLERK.

UNITED STATES OF AMERICA, *Eastern District of Wisconsin, ss:*

I, F. C. Westfahl, jr., clerk of the District Court of the United States of America for the Eastern District of Wisconsin, do hereby certify that I have compared the writings annexed to this certificate with their originals now on file and remaining of record in my office, and that they are true copies of such originals and correct transcripts therefrom, and that the same is a true copy of the record, assignment of error, and all proceedings in the case of The United States of America vs. Clara Holte et al.

In testimony whereof I have hereunto set my hand and duly affixed the seal of the said court at the city of Milwaukee, in said district, this 8th day of September, in the year of our Lord one thousand nine hundred fourteen, and of the independence of the United States the 139th.

[SEAL.]

F. C. WESTFAHL, Jr., Clerk.

UNITED STATES OF AMERICA, ss:

The President of the United States of America, to the judge of the District Court of the United States of America for the Eastern District of Wisconsin, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said District Court of the United States of America for the Eastern District of Wisconsin, before you, between the United States of America, plaintiff, and Clara Holte and Chester C. Laudenschleger, defendants, a manifest error hath happened, to the great damage of the said the United States of America, as by the complaint appears, and it being fit that the error, if any there hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then under your seal, distinctly and openly you send the record and proceedings aforesaid, with all things concerning the same, to the United States Supreme Court, together with this writ, so that you have the same at Washington, D. C., on the 19th day of September next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected the said Supreme Court may cause further to be done therein to correct that error that of right and according to law and custom of the United States should be done.

Witness the honorable Edward D. White, Chief Justice of the said Supreme Court of the United States, this 21st day of August, in the year of our Lord one thousand nine hundred and fourteen and of the independence of the United States the 139th.

F. C. WESTFAHL, Jr., Clerk.

CITATION.

United States District Court, Eastern District of Wisconsin.

UNITED STATES OF AMERICA, PLAINTIFF,

vs.

CLARA HOLTE AND CHESTER C. LAUDENSCHLEGER, DEFENDANT.

UNITED STATES OF AMERICA, ss.

To CLARA HOLTE, greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, at Washington, D. C., on the 19th day of September, A. D. 1914, pursuant to a writ of error filed in the clerk's office of the District Court of the United States for the Eastern District of Wisconsin, wherein the United States of America

is plaintiff in error and you are the defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the honorable F. A. Geiger, District Judge of the United States for the Eastern District of Wisconsin, at the city of Milwaukee, in said district, this 21st day of August, A. D. 1914, and of our independence the one hundred and thirty-ninth (139).

F. A. GEIGER,
U. S. District Judge.

23 Service of this citation is accepted this 28th day of August, A. D. 1914.

LEWIS M. OGDEN,
Per FRED A. LAUDECK,
Attorney for Clara Holte, Defendant in Error.

24 EASTERN DISTRICT OF WISCONSIN, ss.

I do hereby certify and return that on the 28th day of August, A. D. 1914, I served the within writ on Lewis M. Ogden, attorney for Clara Holte, by delivering and leaving with Fred A. Laudeck, law partner of the said Lewis M. Ogden, a true copy thereof.

Marshal's fees, \$2.06.

H. A. WEIL, *U. S. Marshal,*
By J. H. WEBBER, *Deputy.*

(Indorsement on cover:) File No. 24372. E. Wisconsin, D. C. U. S. Term No. 628. The United States, plaintiff in error, vs. Clara Holte. Filed September 19th, 1914. File No. 24372.

